

# Independent Review Panel

## Committee Recommendation to the Panel

September 21, 2006

**Complaint:** A 2003.331

**MDCR Case:** 373-PC-PTDC-03

**Complainant:** Taurus Craig

**Accused Party:** Miami-Dade Corrections and Rehabilitation (MDCR)

**Date Complaint Received:** October 22, 2003

**Materials Reviewed:** Correspondence, IA Case 373-PC-PTDC-03, staff notes and committee notes

**Committee:** Julia Dawson, Esq., Panel Member; Dr. Eduardo Diaz, Executive Director; Carol Boersma, Executive Assistant to the Director; Fernando L. Robreño, Conflict Resolution Specialist

Meeting Date: July 28, 2006

Present: From MDCR Internal Affairs: Chief Mary-Ann Puig, Investigator Vickie Bright, Sgt. Jacquelyn Howard, Sgt. Robin Cuthbertson, Sgt. Daniel Torres, Sgt. Dave Courson, Sgt. Jose Toca; Taurus Craig, Complainant (via telephone)

**Complaint:** The complainant alleges that three MDCR corrections officers beat him while in custody at the Pre-Trial Detention Center on September 24, 2003. The complainant stated that Officer Ana Fuste came into the cell area when it was reported that someone was masturbating. The complainant stated that Officer Fuste unplugged the television and he began to argue with her and exchange curse words. The complainant stated Officer Fuste left and returned with two more officers, Michael Curinton and Robert Montesinos. The complainant stated that Officer Fuste pointed him out and when he walked out of the cell she hit him in back of the head. The complainant stated he swung back and then was attacked by Officer Curinton and Officer Montesinos. The attack allegedly took place in full view of several other inmates. Following the incident, the complainant stated he was subjected to Administrative Confinement. The complainant alleges that Officer Fuste and Officer Montesinos continued to threaten and harass him after the incident. The complainant stated that Officer Fuste also taunted him for covering his face while she kicked him during the beating. The complainant maintains that he attempted to report these incidents internally but was ignored.

As a result of the incident Mr. Craig was charged with Battery on a Law Enforcement Official. The charge was “nolle prossed” on January 6, 2006.

**Department Response: MDCR 373-PC-PTDC-03**

**IA Investigator: Investigator Vickie Bright**

**MDCR Disposition: Captain Manuel Aladro, Chief West Operations Division  
Approving Supervisor: Chief Armando Quinoa, Jail Operations Division**

*The following is excerpted from the MDCR Disposition memo dated November 3, 2004.*

**Allegation # 1– That Officer Fuste hit the complainant on the face – EXONERATED**

Based on a review of all available documents and witness statements, Officer Fuste was escorting Inmate Craig out of the cell and into the wing. He turned around on his own accord, in defiance of instructions. Officer Montesinos stated he observed Officer Fuste and Inmate Craig “fighting.” Officer Suarez said he saw Inmate Craig strike Officer Fuste. Some inmates stated they saw Officer Fuste strike Inmate Craig. The statements do not provide a clear picture of who struck first. Officers do not have to retreat when confronted by a threat and have the right to use force, in order to maintain control and to secure a scene. Officer Fuste did admit raising her hand and blocking Inmate Craig’s blows. Officer Fuste, whose safety space had been violated, threw her hands up in order to place distance between her and the violator.

**Allegation # 2– That Officer Fuste kicked the complainant in the face – NOT SUSTAINED**

Based on the review of all documentation and the inconsistencies among the witnesses’ statements, Inmate Craig was involved in an assault and battery on Officer Fuste, which required the assistance of several officers, in order to restrain him.

**Allegation # 3– That Officer Fuste made fun of him after the incident – NOT SUSTAINED**

Based on the review of all documentation and all available witness statements.

**Allegation # 4– That Officer Curinton kicked the complainant – NOT SUSTAINED**

Inmate Craig was being restrained and he was fighting back as stated by multiple witnesses including Inmate Webb. Once the officers were able to restrain the inmate, the use of force stopped.

**Allegation # 5– That Officer Montesinos kicked the complainant – NOT SUSTAINED**

Inmate Craig was being restrained and he was fighting back, as stated by witnesses.

***Summary of Statements***

**Officer Ana Fuste (Pre-Trial Detention Center, PTDC)**

Officer Fuste read from her written statement since it was a long time between the incident and the interview (ten months). Officer Fuste stated she was assisting with a shakedown in Cell 5B2. While she was on the walk she observed Inmate Craig masturbating. Officer Fuste stated she and

other officers pulled Inmate Craig out of the cell to counsel him but he became aggressive and started to throw punches at her. Officer Fuste stated she was able to block the punches and use the necessary force to bring the subject down to the ground. Officer Fuste stated that while they were on the ground she placed the handcuffs on Inmate Craig's wrist and no other force was used by her. Officer Fuste stated she did not recall the identity of the officers who assisted her nor did she have recollection if anyone assisted her in handcuffing or restraining Inmate Craig. Officer Fuste stated she was blocking Inmate Craig's punches so there had to be some contact however she had no recollection that she punched him. Officer Fuste denied kicking Inmate Craig and denied seeing any officer kick or punch Inmate Craig. Officer Fuste stated she believed she was struck on the right side of her face. Officer Fuste recalled a second incident with Inmate Craig and stated he began insulting her as he was being escorted to the recreation yard. Officer Fuste stated she did not recall if she said anything to Inmate Craig and denied saying she would use force on him in the same manner she had done before.

**Officer Michael Curinton (Pre-Trial Detention Center, PTDC)**

Officer Curinton stated that a shakedown was being conducted on the date in question. After the shakedown Officer Fuste called for assistance because an Inmate was masturbating. Officer Curinton recalled that he, Officer Fuste and Officer Montesinos went to the cell in question. Officer Curinton stated Officer Fuste pointed out Inmate Craig and Inmate Craig admitted he was the one masturbating. Officer Curinton stated he told Inmate Craig to exit the cell. Ten seconds later he heard a commotion outside the cell. Officer Curinton stated he exited the cell and saw Officers Montesinos and Fuste on the ground with Inmate Craig. Officer Curinton stated he did not observe any officers punch or kick Inmate Craig.

**Officer Robert Montesinos (Pre-Trial Detention Center, PTDC)**

Officer Montesinos stated he heard Officer Fuste tell an inmate not to masturbate in front of her. Officer Montesinos stated he and Officer Curinton went with Officer Fuste to counsel the inmate who was masturbating. Officer Montesinos stated that Officer Fuste asked who was masturbating and stated if no one came forward she would take away the television. Inmate Craig came forward and stated he was masturbating and Officer Fuste instructed him to exit the cell. Officer Montesinos stated he went back to get Officer Curinton and when he turned his back on Inmate Craig and Officer Fuste he heard a scuffle. Officer Montesinos stated he saw Inmate Craig and Officer Fuste in a "defensive stance" but he did not see who threw the first punch. Officer Montesinos stated he grabbed Inmate Craig to throw him on the ground and restrain him. Officer Montesinos stated he did not punch or kick Inmate Craig.

**Officer Gladys Saldarriaga (Pre-Trial Detention Center, PTDC)**

Officer Saldarriaga stated she relieved Officer Fuste for a break on October 7, 2003. While Officer Fuste waited for the elevator, a safety inmate (Taurus Craig) was being escorted down the hall for recreation. Officer Fuste noticed that the inmate was one with whom she had a previous incident, during which the inmate hit her. Officer Saldarriaga stated she heard the inmate using profanity and taunting Officer Fuste. Officer Fuste became upset and stated she did not have to put up with that.

**Officer Alfredo Suarez (Pre-Trial Detention center, PTDC)**

Officer Suarez stated as he walked past the hallway on the Fifth Floor, he heard a commotion. He looked down the hallway and witnessed a tall black male hit Officer Fuste. Officer Suarez was on light duty and could not assist Officer Fuste therefore he told the booth officer to call for back up. Officer Suarez could not identify Inmate Craig as the one who hit Officer Fuste but he did identify him as being removed from the wing after the incident.

**Corporal Nadine Johnson (TGK)**

Corporal Johnson stated she was escorting Inmate Craig on October 7, 2003 to the recreation yard. As they were walking down the hallway she heard Inmate Craig and Officer Fuste exchanging words. Corporal Johnson could not recall who initiated the verbal exchange but it was about a previous incident that had occurred between them.

**James Harris (Inmate, PTDC)**

Mr. Harris stated that Officer Fuste passed by the cell conducting a security check. Inmate Craig was standing in the day room area and as Officer Fuste passed by, he pulled out his penis and proceeded to masturbate. Mr. Harris stated Officer Fuste snatched the television plug from the socket and told the inmates that they would not get it back until the person who was masturbating came forward. Inmate Craig acknowledged he was the one masturbating and Officer Fuste told him to wait and she would be back. Officer Fuste returned with two more officers and proceeded to escort Inmate Craig out of the cell. Mr. Harris stated he saw Officer Fuste advance toward Inmate Craig as if to hit him but he did not see her actually do it. However, he did see when Officer Fuste hit against the wall. Mr. Harris then saw Inmate Craig fall to the ground and the other officers began to beat on him. Mr. Harris stated that several inmates in the cell were saying that Inmate Craig had hit Officer Fuste first.

**Adrian Brabham (Inmate, PTDC)**

Mr. Brabham stated that Officer Fuste accused an inmate of masturbating and left. She returned with two more officers and asked that the inmate who was masturbating come forward. Mr. Brabham stated that no one came forward so Inmate Craig came forward and took the blame. Mr. Brabham stated Officer Fuste then approached Inmate Craig's face and struck him, he did not know if it was with an open or closed hand. Afterward, Inmate Craig pushed Officer Fuste to the floor and the two other officers began hitting and kicking Inmate Craig. Mr. Brabham stated Officer Fuste then got up and started kicking Inmate Craig.

**Timeline of Investigation**

- 1- September 24, 2003 – Incident occurred*
- 2- October 10, 2003 - Mr. Craig wrote complaint letter to the IRP*
- 3- November 19, 2003 – IRP asks MDCR for formal investigation*
- 4- December 1, 2003 – IA investigator took Mr. Craig's statement*
- 5- September 8, 2004 – IA investigation closed*

6- *December 1, 2004 – MDCR disposition finalized*

7- *March 22, 2005 – IRP receives IA file\**

8- *January 6, 2006, - Charges against Mr. Craig are “nolle prossed”*

9- *March 13, 2006, - Mr. Craig released from prison*

*\* Staff took no action at this time because IRP Rule of Procedure 5.3.A requires that: “if (the complainant) is the subject of pending criminal or civil judicial proceedings, the complaint shall be deferred...until such proceedings have reached a final disposition.”*

### **Committee Remarks:**

#### Internal Affairs Investigation

Mr. Craig stated he felt the IA investigator falsely concluded that Officer Fuste was justified in hitting him despite the fact that Officer Fuste stated in her statement that she never hit him and there are pictures that show bruises on his body. Chief Puig informed Mr. Craig that it is the investigator's job to record information not to come up with findings. Either the Disposition Panel or someone in the Chain of Command determines the findings.

Dr. Diaz stated that according to witness statements Mr. Craig admitted to masturbating. Mr. Craig stated he was not masturbating and the confusion arose when Officer Fuste came back and he came forward as the individual she was arguing with over television privileges.

Dr. Diaz asked Mr. Craig why he would hit Officer Fuste. Mr. Craig stated it was just a natural reaction to hit back when someone hits you. Dr. Diaz stated that he saw evidence of escalation of the conflict by both parties to the incident.

Mr. Craig stated he wrote a letter to Internal Affairs on October 8<sup>th</sup>, 2003 regarding the incident but they did not investigate the matter until he wrote a letter to the IRP. Investigator Bright stated she was assigned the case on October 30<sup>th</sup>. Ms. Dawson asked why it took so long to assign the case. Chief Puig stated that the letter was written on October 8<sup>th</sup> however that is not the date they received it, their computer would have that on file.

#### Video Cameras

Ms. Dawson asked whether there were video cameras in the area. Chief Puig stated that there are video recordings in certain areas of the jail, such as the rear lobby and suicide ward, however there are none on the general population floors.

#### Use of Foul Language

Ms. Dawson expressed concern over the officers' use of foul language toward inmates. Mr. Craig stated it was an everyday occurrence and officers use foul language when they feel their authority is being tested or when inmates are being difficult.

#### Length of Investigation

Ms. Dawson expressed concern over the lapse in time between the incident and when statements were taken. Chief Puig stated there were very few investigators at the time and many cases to investigate.

Chief Puig stated that Internal Affairs now has more investigators to help with cases. In addition, a new state law has passed requiring a 180 day time limit to complete investigations.

Ms. Dawson asked why it took so long for the involved officers to be interviewed. Chief Puig stated it is state statute for the accused officers to be interviewed last because they have to be provided the witness statements before giving theirs. In addition, if the witnesses are still in jail the accused officers cannot be provided the statements in order to prevent possible retribution.

### **Committee Findings:**

#### **A. Regarding the allegations**

1. ***Three Officers from MDCR beat Mr. Craig while in custody at the Pre-Trial Detention Center on September 24, 2003. – No Evidence to Support or Refute the Allegation***

There are conflicting statements regarding the incident from both Officers and inmates. However, Inmate Craig admitted to throwing a punch at Officer Fuste warranting a physical response from the Officers at the scene in order to restrain him.

#### **B. Other Findings:**

1. Staff found that the Disposition Panel Findings did not appear to be written by a disposition panel. It appears there was no panel at all and the findings were written by one individual, Captain Manuel Aladro, which would be appropriate for a complaint classified "PC" (Personnel Complaint)
2. Staff found that Captain Aladro, Acting Lieutenant at PTDC at the time of the incident, wrote an Executive Summary Report regarding the incident to then Acting Director Charles McRay. Captain Aladro was the architect of the findings for this investigation.
3. Officers Montesinos and Fuste no longer work for MDCR. They both resigned voluntarily.

**Recommendations:**

1. That MDCR develop a departmental policy that prevents supervisors with direct knowledge or involvement of an incident being investigated from participating on that complaint's disposition and the development of its findings, as was illustrated for this complaint in Other Findings 1 & 2.
2. That the Panel conclude the complaint.